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Memorandum

February 7, 2022

TO: Interested Persons

FROM: Elizabeth Haskell, Principle Research Analyst, 303-866-6264

SUBJECT: 2022 Sunset Review Hearings

Summary

Sunset laws allow the General Assembly to periodically review the need for state regulations, advisory committees, or state agencies and to update the law creating the agency or function. To accomplish this review, committees of reference hold public sunset hearings on sunset reports issued by the Colorado Department of Regulatory Agencies (DORA). In 2022, 20 functions of Colorado state government are subject to sunset termination dates of July 1, 2022, or October 1, 2022, unless continued by the General Assembly in a bill.

2022 Sunset Reviews

Table 1 shows the 2022 sunset reviews and the committees that will conduct the sunset hearings.

Table 1
2022 Sunset Reviews

Acupuncture Licensing Program	House Health & Insurance
Asbestos Control Act	House Energy & Environment
Board of Real Estate Appraisers	House Business Affairs & Labor
Colorado Interagency Working Group on School Safety	House Education
Colorado Resiliency Office	House Energy & Environment
Colorado Veterinary Practice Act	House Agriculture, Livestock, and Water
Division of Gaming	Not yet assigned
Domestic Violence Offender Management Board	House Judiciary
Education Data Advisory Committee	House Education
Elevator & Escalator Certification Act	House Public & Behavioral Health and Human Services

**Table 1 (Cont.)
2022 Sunset Reviews**

Health Care Work Force Data Advisory Group	House Health & Insurance
Juvenile Justice Reform Committee	House Judiciary
Massage Therapy Practice Act	House Judiciary
Preneed Funeral Contracts	House Judiciary
Second Chance Scholarship Program	House Education
School Safety Resource Center Advisory Board	House Education
Speech-language Pathologist Practice Act	House Public & Behavioral Health and Human Services
State Board of Optometry	House Health & Insurance
Strategic Action Planning Group on Aging	House Public & Behavioral Health and Human Services
Workers' Compensation Fining Authority	House Business Affairs & Labor

Sunset Reports

In the year preceding sunset hearings, DORA produces [sunset reports](#) for each of the agencies and functions of government subject to sunset laws. These reports describe the history of the entity, examine the laws which created the entity, and make recommendations regarding changes to the law and continuation of the entity. Information on the reports and the process used by DORA to compile the reports can be found [here](#).

Sunset Hearings

Committees conduct sunset hearings on the sunset reports issued by DORA. The hearings must include discussion and testimony on the statutory sunset criteria (see pages 3 to 4 of this memo for more information on the criteria).

Generally, committees hold these hearings during the legislative session. DORA analysts, agency directors, program administrators, interested citizens, and representatives of involved professional organizations often testify at sunset hearings. The standard format for conducting a sunset hearing on an agency or function of government is as follows.

1. The authoring analyst from DORA makes a brief presentation of the report to the committee and gives an overview of DORA's recommendations for altering the law in the subject area.
2. The program administrator or agency director involved comments on the recommendations made in the DORA report.
3. Members of involved professions and/or interested citizens comment on the report.

4. The committee considers a draft bill containing the DORA recommendations, and may amend the bill to remove any DORA recommendations or add conceptual suggestions of committee members.
5. The committee considers a motion to recommend the draft bill for introduction.

Legislation to Continue an Entity or Function of Government

Bill titles and contents. A committee may recommend that an agency or function of government subject to a sunset review be continued or terminated. If the assigned committee of reference believes that an agency or function should be continued, it recommends a bill to the full General Assembly continuing the agency or function. The bill may also make adjustments to the area of the law establishing the agency or function of government, and may include all, some, or none of the recommendations made by DORA in the sunset report. Agencies and functions of government may be continued for up to 15 years. Newly created advisory committees must be reviewed within 10 years of their creation, but they may be continued indefinitely after being reviewed. No more than one division, board, or agency may be continued in a bill, and the division, board, or agency must be cited in the bill's title.

Bill sponsorship. The chair of the committee that conducts the sunset hearing may assign the sponsorship of a proposed bill to one or more members of the committee or to one or more legislators who are not members of the committee if approved by a majority vote of the committee's members. No more than two sunset bills may be assigned to any one member of the General Assembly. Sunset bills do not count against the sponsor's bill introduction limit.

Bill hearings. The same committee that conducted the sunset hearings is generally the committee of reference for bills introduced as a result of the hearings.

Terminating an Entity or Function of Government

A committee recommends termination of an entity or function simply by not proposing legislation for its continuation. However, a committee may choose to introduce a bill to clean up statutes that will no longer be needed if an entity is terminated. In the event that the General Assembly allows an agency or function of state government to terminate, the agency or function continues to exist for the next succeeding year for the purpose of "winding up affairs."

Statutory Sunset Review Criteria

In conducting sunset hearings, a committee of reference considers whether a public need exists for the continued existence of an agency or function of government and whether regulation by the state is the least restrictive regulation consistent with the public interest. The determination as to whether a

public need exists for the agency or function of government, and for the degree of regulation it practices, is based on a number of criteria¹ listed below:

1. whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less, or the same degree of regulation;
2. if regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;
3. whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;
4. whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
5. whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
6. the economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
7. whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
8. whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
9. whether the agency through its licensing or certification process imposes any sanctions or disqualifications on applicants based on criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests; and
10. whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

¹Section 24-34-104 (6) (b), C.R.S.